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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,693	05/24/2004	RYAN THOMAS BECHARD		3692
37054	7590	04/05/2005		
RYAN T. BECHARD 6539 50TH AVE. CHIPPEWA FALLS, WI 54729			EXAMINER COCKS, JOSIAH C	
			ART UNIT 3749	PAPER NUMBER

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/709,693	Applicant(s) BECHARD, RYAN THOMAS	
	Examiner Josiah Cocks	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/24/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings filed 5/24/2004 are accepted by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 7, 9, 11, 12, 15, 17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,976,918 to Leach ("Leach").

Leach discloses in Figures 1 and 2 the invention as described in applicant's claims 1, 3, 4, 7, 9, 11, 12, 15, 17, 19, and 20. In particular, Leach shows a device (10) for preheating oil in a combustion system and method of preheating the oil that includes a body (12) made of thermally conductive material and includes an oil passageway (34, 39) and a liquid passageway (interior of housing 12) in which, heated in tank (67) is supplied via line (66). Oil passing through the oil passageways is heated in order to prevent the oil from becoming too thick to properly flow to the combustion assembly (see col. 1, lines 18-47). The water is circulated by pump (70) and the oil circulated by pump (54). The examiner considers that the body (12) is of sufficient shape and length to properly operate in various applications.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 5, 6, 8, 10, 13, 14, 16, and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Leach as applied to claims 1 and 9 above in view of U.S. Patent No. 4,797,089 to Schubach et al. ("Schubach").

Leach does not go into further detail as to how the oil is supplied in the combustion apparatus, i.e. via an air atomizing nozzle and thus the presence of an air passageway in the body, or explicitly the presence of an igniter and bracket means to connect the preheating device to the burner.

Schubach teaches an oil preheating device in the same field of endeavor as Leach that supplied oil to a combustion device. As is well understood in the art, such devices include a body having the form described by applicant including an oil atomizing nozzle (26) that is atomized by a flow of air supplied via an air inlet (18) to an air passageway in a body of the device (see Fig. 3). The device further includes an ignition device (39) mounted to ignite the flow from the nozzle. However, in Schubach, the oil preheating means is an attached adjacent heating element (12).

In regard to the recitation in claims 8 and 18, it is inherent in the disclosures of both Leach and Schubach that the preheating devices would necessarily be attached in some manner

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to a combustion system. OFFICIAL NOTICE is taken that one or more brackets are well known in the art as this means of attachment.

Therefore, in regard to claims 2, 5, 6, 8, 10, 13, 14, 16, and 18, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the means for causing oil preheating via an additional pre-heated liquid of Leach in the oil preheating device of Schubach as the preheating means of Leach is recognized as an improvement over the attached adjacent heating element of Schubach. Leach specifically notes that an adjacent electrical or gas heating unit (such as that of Schubach) has a possible disadvantage of not being able to heat the oil uniformly (see Leach, col. 1, lines 27-35). The heated liquid/water passageway structure of represents an improved oil preheating system that is simple in construction and efficient in operation (see Leach, col. 1, lines 43-47).

Conclusion

6. This action is made non-final. A THREE (3) MONTH shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Laster, Bachmann, Lado, Delage, Fuchs et al., and French Patent No. 2 304 030 are included to further show the state of the art concerning oil preheating devices.

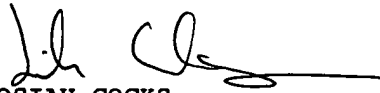
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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (571) 272-4874. The examiner can normally be reached on weekdays from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (571) 272-4877. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Any questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

jcc
March 31, 2005


JOSIAH COCKS
PRIMARY EXAMINER
ART UNIT 3749